

Illinois Commerce Commission**Pipeline Safety****Pipeline Safety Report****Inspection #: 2015-P-00265**

Operator: MT. CARMEL PUBLIC UTILITY CO.	Operator ID#: 12858
Exit Meeting Contact:	Total Man Days: 8
Pipeline Safety Representative(s): Valerie Schwing, Charles Gribbins	
Company Representative to Receive Report: Joseph Sellers	<u>Emailed Date:</u>
Company Representative's Email Address: jsellers@mtcpu.com	08/19/2015

Inspection Summary

Inspection Type	Location	ICC Analyst	Inspection Unit(s)	Man Day(s)	Inspection Date(s)	Contact(s)
Standard Inspection Plan Review- Drug and Alcohol	Mt. Carmel	Valerie Schwing, Charles Gribbins	MT. CARMEL PUBLIC UTILITY CO.	8	5/26/2015, 5/27/2015, 5/28/2015, 5/29/2015	Eric Bramlet

Statement of Activities

On May 26-29, 2015, ICC Staff conducted a Drug and Alcohol Plan Audit for Mt. Carmel Public Utility Company, to determine compliance with applicable IL Adm. Codes and the Code of Federal Regulations adopted via IL Adm. Part 590.

Exit Statement**INSPECTION FINDINGS****Standard Inspection Plan Review- Drug and Alcohol****Issues(s) Found:**

[NO ISSUES FOUND]

Notice Of Amendment(s) Found:

2015-A001-00038 (Code Part [40.307(f)]) - The Drug and Alcohol Plan incorrectly identified the MRO and not the SAP as the person to establish the frequency of employee follow-up testing after a failed drug test.

2015-A001-00039 (Code Part [40.67(b)]) - The Drug and Alcohol Plan does not include a procedure that each return-to-duty test or follow-up test in relation to a test for drug use is performed under direct observation of a collector .

2015-A001-00040 (Code Part [199.243(a)]) - The Drug and Alcohol Plan does not require Mt. Carmel to advise an employee who has engaged in conduct prohibited by §§199.215 through 199.223 of this subpart of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol. This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

2015-A001-00041 (Code Part [40.171(c)]) - The Drug and Alcohol Plan does not require that the MRO documents the date and time of the employee's request to test the split specimen by using a second HHS-certified laboratory.

2015-A001-00042 (Code Part [40.15(d)]) - The Drug and Alcohol Plan does not require that a service agent is not used to fulfill the function of a DER.

Illinois Commerce Commission

Pipeline Safety

Pipeline Safety Report

Inspection #: 2015-P-00265

2015-A001-00043 (Code Part [40.305(a)]) - The Drug and Alcohol Plan does not identify a procedure for the employee to complete the SAP process as listed in CFR §40.305 and successfully complete a return-to-duty drug test before resuming performance of safety-sensitive duties.

2015-A001-00044 (Code Part [199.239(a)(2)]) - The Drug and Alcohol Plan does not require written notice to representatives of employee organizations informing the group of the availability of educational materials explaining alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements.

2015-A001-00045 (Code Part [199.105(f)]) - The Drug and Alcohol Plan does not require follow-up testing to be performed on an unannounced basis, at a frequency established by the MRO not the SAP, for a period of not more than 60 months. The Drug and Alcohol Plan does not require that at least six tests must be conducted within the first 12 months following the covered employee's return to duty.

2015-A001-00046 (Code Part [40.67(a)(b)&(d)]) - In the Drug and Alcohol Program, procedures are not in place for direct observation with no advance notice to the employee, if the laboratory reported to the MRO that a specimen is invalid, and the MRO reported that there was not an adequate medical explanation for the result. In the Drug and Alcohol Program, procedures are not in place if the MRO reported that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed; or the laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation.

2015-A001-00047 (Code Part [40.165(a)]) - The Drug and Alcohol Plan does not require that all drug test results are reported to the DER, except when a C/TPA may act as an intermediary.

2015-A001-00048 (Code Part [199.223]) - The Drug and Alcohol Plan does not require that an employee who refuses to submit to a required alcohol test (i.e. post-accident, reasonable suspicion, or a follow-up test) may not perform or continue to perform covered functions.

2015-A001-00049 (Code Part [40.21(a)]) - The Drug and Alcohol Plan does not state, standing down an employee before the MRO has completed the drug test verification process or that an approved waiver is granted per the requirements is prohibited. The plan must state the stand down process.

2015-A001-00050 (Code Part [40.33(b)]) - In the Drug and Alcohol Plan Urine specimen Collector positions do not require that the program meets the applicable qualification requirements listed in CFR §40.33

2015-A001-00051 (Code Part [40.25(a)]) - The Drug and Alcohol Plan does not require Mt. Carmel to request written consent from a new employee to obtain said employee's previous drug and alcohol testing records. If the employee refuses to provide written consent then the Drug and Alcohol Plan must state the employee is not allowed to perform safety-sensitive functions.

2015-A001-00052 (Code Part [199.1]) - The Drug and Alcohol Plan did not list the covered positions that are required to be tested for the presence of prohibited drugs and alcohol.

2015-A001-00053 (Code Part [40.167(a)]) - The Drug and Alcohol Plan does not require that drug test results are reported

Illinois Commerce Commission

Pipeline Safety

Pipeline Safety Report

Inspection #: 2015-P-00265

to the employer in a confidential manner.

2015-A001-00054 (Code Part [40.409(b)]) - The Drug and Alcohol Plan does not address Public Interest Exclusions "(PIEs)". The Drug and Alcohol must state that if the employer uses a service agent concerning whom a PIE is issued, the employer must stop using the services of the service agent no later than 90 days after the Department has published the decision in the Federal Register or posted it on its web site.

2015-A001-00055 (Code Part [40.111(a)]) - The Drug and Alcohol Plan does not require that the laboratory transmits an aggregate statistical summary, by employer, of the data listed in Part 40, Appendix B to the employer on a semi-annual basis.

2015-A001-00056 (Code Part [40.281(c)]) - In the Drug and Alcohol Plan SAP positions do not require that the program meets the applicable qualification requirements listed in CFR §40.281.

2015-A001-00057 (Code Part [40.285(a)]) - The Drug and Alcohol Plan does not require that a covered employee who engages in conduct prohibited by §§199.215 through 199.223 is not allowed to return to duty to perform any covered function until that employee completes a SAP evaluation, referral, and education/treatment process.

2015-A001-00058 (Code Part [199.209(b)(2)]) - The Drug and Alcohol Plan did not require that all new covered employees are treated the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others).

2015-A001-00059 (Code Part [40.23(a)]) - The Drug and Alcohol Plan does not assure or require that until a positive drug test is confirmed, the employee will be removed from performing safety-sensitive functions. The Drug and Alcohol Plan does not require that the employer must take this action upon receiving the initial report of the verified positive test result.

2015-A001-00060 (Code Part [40.127]) - The Drug and Alcohol Plan does not require that the MRO performs the review functions required by §40.127 for negative drug test results received from a laboratory, prior to verifying the result and releasing it to the DER.

2015-A001-00061 (Code Part [40.213]) - The Drug and Alcohol Plan does not require Screening Test Technicians and Breath Alcohol Technicians must meet the training requirements listed in CFR §40.213.

2015-A001-00062 (Code Part [40.123(b)]) - The Drug and Alcohol Plan does not require that the MRO's responsibilities include providing quality assurance reviews of the drug testing process.

2015-A001-00063 (Code Part [199.209(b)(3)]) - The Drug and Alcohol Plan did not require that pre-employment alcohol tests must be conducted after making a contingent offer of employment or transfer to an employee, subject to the employee passing the pre-employment alcohol test.

2015-A001-00064 (Code Part [40.121(c)]) - In the Drug and Alcohol Plan MRO positions do not require that the program meets the applicable qualification requirements listed in §40.121.

2015-A001-00065 (Code Part [40.97(b)]) - The Drug and Alcohol Plan does require that laboratory results are reported directly, and only, to the MRO at his or her place of business.

Illinois Commerce Commission

Pipeline Safety

Pipeline Safety Report

Inspection #: 2015-P-00265

2015-A001-00066 (Code Part [199.101(a)(3)]) - The Substance Abuse Professionals (SAPs) name and address must be identified and listed in the Drug and Alcohol Plan.

2015-A001-00067 (Code Part [40.13(a)]) - The Drug and Alcohol Plan does not ensure that DOT drug and alcohol tests are completely separate from non-DOT tests in all respects.

2015-A001-00068 (Code Part [199.209(b)(1)]) - Mt. Carmel has chosen to conduct pre-employment alcohol testing. The Drug and Alcohol Plan did not establish that a pre-employment alcohol test be conducted before the first performance of covered functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions).

2015-A001-00069 (Code Part [40.287]) - The Drug and Alcohol Plan does not require a listing with names, addresses, and telephone numbers of SAPs will be readily available to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulations.

2015-A001-00070 (Code Part [40.167(b)(c)]) - The Drug and Alcohol Plan does not require the MRO or C/TPA who transmits drug test results to the employer to transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test. The Drug and Alcohol Plan does not require as the MRO or C/TPA who transmits drug test results to the employer to transmit the MRO's report(s) of verified tests to the DER so that the DER receives them within two days of verification by the MRO.

2015-A001-00071 (Code Part [40.99(a)(b)]) - The Drug and Alcohol Plan does require that laboratories testing the primary specimen retain a specimen that was reported with adulterated, substituted, or invalid results for a minimum of one year. The Drug and Alcohol Plan does require that the specimen must be kept in secure, long-term, frozen storage in accordance with HHS requirements.

2015-A001-00072 (Code Part [40.307(a)]) - The Drug and Alcohol Plan must state the SAP establishes a written follow-up testing plan for a covered employee that engages in conduct prohibited by §§199.215 through 199.223 and seeks to return to the performance of a covered function.

2015-A001-00073 (Code Part [40.153(d)]) - The Drug and Alcohol Plan does require that the split specimen must be tested regardless of payment. The Drug and Alcohol Plan does not ensure that the test takes place, and that the employee is not required to pay for the test from his or her own funds before the test takes place. The Drug and Alcohol Plan does not require the MRO to tell the employee that the employer may seek reimbursement for the cost of the test.

2015-A001-00074 (Code Part [199.239(b)(1-11)]) - The Drug and Alcohol plan did not incorporate the U.S DOT Office of Drug and Alcohol Policy and Compliance. Therefore, the educational materials made available to covered employees did not include detailed discussion of at least the following: The categories of employees who are subject to the provisions of this subpart. Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this subpart. Specific information concerning covered employee conduct that is prohibited by this subpart. The circumstances under which a covered employee will be tested for alcohol under this subpart. The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee. The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart. An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences. The consequences for covered employees found to have violated the prohibitions under this

Illinois Commerce Commission

Pipeline Safety

Pipeline Safety Report

Inspection #: 2015-P-00265

subpart, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243. The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04. Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

Notice Of Violation(s) Found:

2015-V001-00008 (Code Part [199.241]) - Records were not provided that indicate supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §199.225(b) received at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Mt. Carmel must provide Staff with evidence that supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §199.225(b) have received at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

2015-V001-00009 (Code Part [40.45(a)-(d)]) - On May 28, 2015, Staff determined the current Federal Drug Testing Custody and Control Form "(CCF)" or equivalent, was not being used at the collection site, Wabash Primary Care Assoc., located at 1123 Chestnut Street, Mt. Carmel, IL 62863. Mt. Carmel must insure that all collection sites use the correct Federal Drug Testing Custody and Control Form.

PAST INSPECTION FINDINGS

Issue(s) Corrected:

[NO ISSUES CORRECTED]

Notice Of Amendment(s) Corrected:

[NO NOAS CORRECTED]

Notice of Violations(s) Corrected:

[NO NOPVS CORRECTED]